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IN THE SUPREME COURT

STATE OF ARIZONA

In the Matter of:)	
)	
PETITION TO AMEND RULE 68,)	
ARIZONA RULES OF FAMILY)	Supreme Court No. R-11-_____
LAW PROCEDURE)	(expedited consideration requested)
_____)	

Pursuant to Rule 28 of the Rules of the Arizona Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to adopt the attached proposed amendment to Rule 68 of the Arizona Rules of Family Law Procedure (ARFLP), on an expedited basis to bring it into conformity with a recent amendment to Arizona statutes. This proposed amendment is designed to implement a new statutory provision to extend a stay of proceedings in conciliation court from 60 days up to 120 days, as adopted in Senate Bill 1187 (Laws 2011, Chapter 305). The text of the proposed amendment is set out in the accompanying Appendix A.

I. Background and Purpose of the Proposed Rule Amendment. Senate Bill 1187 was passed and signed into law in the First Regular Session of the Fiftieth Legislature (Ch. 305)(2011). The bill's effective date is July 20, 2011.

SB 1187 added subsection A.R.S. § 25-381.18(B) to the existing Dissolution of Marriage statute. A.R.S. § 25-381.18(A) allows the parties to file a petition for conciliation that results in the stay of all proceedings pending in the superior court and transfers the case to the conciliation court for hearing and further disposition. The addition of A.R.S. § 25-381.18(B) creates a specific provision allowing either party to file a petition with the court to extend the stay outlined in A.R.S. § 25-381.18(A) from 60 days up to 120 days. The court may grant a reasonable extension of up to 120 days if the moving party establishes good cause for the extension. The moving party must state the basis for the extension and include a plan for reconciliation or a counseling schedule. This legislation gives the court the authority to grant a reasonable extension or deny an extension if the other party objects with good cause.

The proposed rule amendment would conform the Rules of Family Law Procedure with the change made to A.R.S. § 25-381.18. The amendment will provide notice to the courts and to the public that a stay of proceeding in conciliation court may be extended up to 120 days provided the petition states the

basis for the extension and includes a plan for reconciliation or a counseling schedule.

II. Contents of the Proposed Rule Amendment. ARFLAP Rule 68(A)(2) governs the length of the court's stay of dissolution proceedings. The proposed additional language in Rule 68(A)(2) mirrors the new statutory provision.

III. Pre-Petition Comments. The petition has not been circulated for pre-petition comments.

IV. Effective Date of the Proposed Rule Amendment. The rights granted by the underlying statutory amendment will become effective on July 20, 2011. Petitioner therefore requests expedited adoption of the proposed amended rule with a formal comment period to follow, as permitted by Supreme Court Rule 28(G).

RESPECTFULLY SUBMITTED this ____ day of _____ 2011.

By _____
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APPENDIX A
(new language is underlined)

Rule 68. Conciliation Court Services; Counseling, Mandatory Mediation, Assessment or Evaluation and other Services.

A. Conciliation Counseling/Petition for Conciliation.

1. *Filing a Petition for Conciliation.* Either spouse may file a Petition for Conciliation pursuant to A.R.S. § 25-381.09 for the purpose of preserving the marriage or resolving controversies through counseling. The petition shall be filed with the clerk of the court or submitted directly to the conciliation court as provided by local rule or administrative order. When an action for dissolution, legal separation, or annulment is pending, the original Petition for Conciliation may be filed in the court file or in a separate file with a notice or minute entry of the filing of Petition for Conciliation filed in the court file as provided by local rule or administrative order. A copy of the Petition for Conciliation will be sent to conciliation court.

2. *Period of Jurisdiction; Stay of Proceedings; Temporary Order; Extension.*

a. Upon the timely filing of a Petition for Conciliation, counseling shall be conducted and completed within sixty (60) days of the filing of the petition, unless an extension of any stay of proceedings has been granted pursuant to subsection (d). During this time, no action for dissolution, legal separation, or annulment shall be filed and any pending action for dissolution, legal separation, or annulment is stayed, unless the court lifts the stay before the expiration of the sixty-day period or grants any other extension.

b. There shall be no more than one (1) stay during any twelve-month period in any case.

c. During the stay, the court may proceed to hear and enforce Petitions for Orders of Protection pursuant to A.R.S. § 13-3602 and any requests for temporary orders as allowed by A.R.S. § 25-381.17.

d. A party may petition the court for an extension of the stay of proceedings. The petition must state the basis for the extension and include a plan for reconciliation or a counseling schedule. The court may grant a reasonable extension of up to one hundred twenty days if the moving party establishes good cause for the extension. The court shall not grant an extension if the other party objects with good cause.

B. – F. [No changes]